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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,977	01/16/2004	James Allen	3993968-128951	8330

7590 06/16/2004

PORTER WRIGHT MORRIS & ARTHUR LLP  
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EXAMINER
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KIM, CHONG HWA

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/759,977

Applicant(s)

ALLEN ET AL.

Examiner

Chong H. Kim

Art Unit

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-- The MAILING DATE f this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Asano et al., U.S. Patent 5,086,663.

Asano et al. shows, in Figs. 1-5, an adjustable control pedal comprising, in combination;

a pivotable upper arm 6 having a slot 6a formed therein;

a lower arm 18 having a lower end carrying a pedal 27 and operatively connected to the upper arm for selected movement relative to the upper arm;

a drive assembly 22 operatively connected to the lower arm to selectively move the lower arm relative to the upper arm;

a guide block 17 secured to the lower arm and laterally extending into the slot;

wherein the guide block moves along the slot upon selected movement of the lower arm relative to the upper arm by the drive assembly;

wherein the slot is arcuate and the guide block has arcuate upper and lower surfaces (since the block is circular) engaging edges of the slot; and

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wherein the guide block is formed separate from the lower arm and is attached to the lower arm.

3. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds et al., U.S. Patent 6,289,761 B1.

Reynolds et al. shows, in Figs. 4-6, an adjustable control pedal comprising, in combination;

a pivotable upper arm 12 having a slot 102 formed therein;

a lower arm 14 having a lower end carrying a pedal 16 and operatively connected to the upper arm for selected movement relative to the upper arm;

a drive assembly 18 operatively connected to the lower arm to selectively move the lower arm relative to the upper arm;

a guide block 106 secured to the lower arm and laterally extending into the slot;

wherein the guide block moves along the slot upon selected movement of the lower arm relative to the upper arm by the drive assembly;

wherein the slot is arcuate and the guide block has arcuate upper and lower surfaces (since the block is circular) engaging edges of the slot;

wherein the drive assembly includes a screw 54 carried by the upper arm, a nut 58 threadably engaging the screw and adapted to move axially along the screw upon rotation of the screw, and a motor 60 operatively connected to the screw to selectively rotate the screw, and wherein the nut is secured to the lower arm;

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wherein the guide block is formed separate from the lower arm and is attached to the lower arm; and

wherein the guide block has at least one pin extending into an opening of the lower arm to rigidly attach the guide block to the lower arm.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al., U.S. Patent 6,352,007 B1 in view of Oberheide et al., U.S. Pub No. US 2003/0056615 A1.

Zhang et al. shows, in Figs. 1-6, an adjustable control pedal comprising, in combination;  
a pivotable upper arm 14 having a slot 32 formed therein;  
a lower arm 16 having a lower end carrying a pedal 40 and operatively connected to the upper arm for selected movement relative to the upper arm;

a drive assembly 13 operatively connected to the lower arm to selectively move the lower arm relative to the upper arm;

a guide block 42 secured to the lower arm and laterally extending into the slot;  
wherein the guide block moves along the slot upon selected movement of the lower arm relative to the upper arm by the drive assembly;

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wherein the drive assembly includes a screw 62 carried by the upper arm, a nut 88 threadably engaging the screw and adapted to move axially along the screw upon rotation of the screw, and a motor 58 operatively connected to the screw to selectively rotate the screw, and wherein the nut is secured to the lower arm;

wherein the nut is secured to the guide block; and

wherein the lower arm is supported by the upper arm only through the guide block;

but fails to show the slot being arcuate and the guide block having arcuate upper and lower surfaces engaging edges of the slot;

Oberheide et al. teaches, in Fig. 13 and in paragraph [0043] that a curved slot in the adjustable pedal system will provide an arcuate path of travel that maintains a direct tangential force by the driver regardless of the position of the pedal.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the straight linear slot of Zhang et al. with the arcuate slot as taught by Oberheide et al. in order to provide a comfortable operation to a wider range of operators.

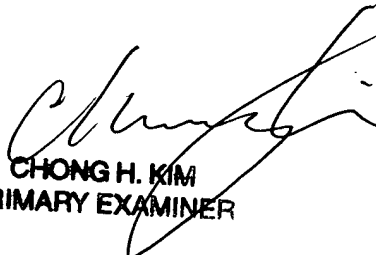
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Tuesday - Friday; 8:00 - 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk  
June 12, 2004

  
CHONG H. KIM  
PRIMARY EXAMINER